The Green Mission Inc. Presents

Deconstruction Material and Property Appraisal Issues in 2022

THE GREEN MISSION

DONATIONS • APPRAISALS • TAX EXPERTISE

Important appraisal and tax updates

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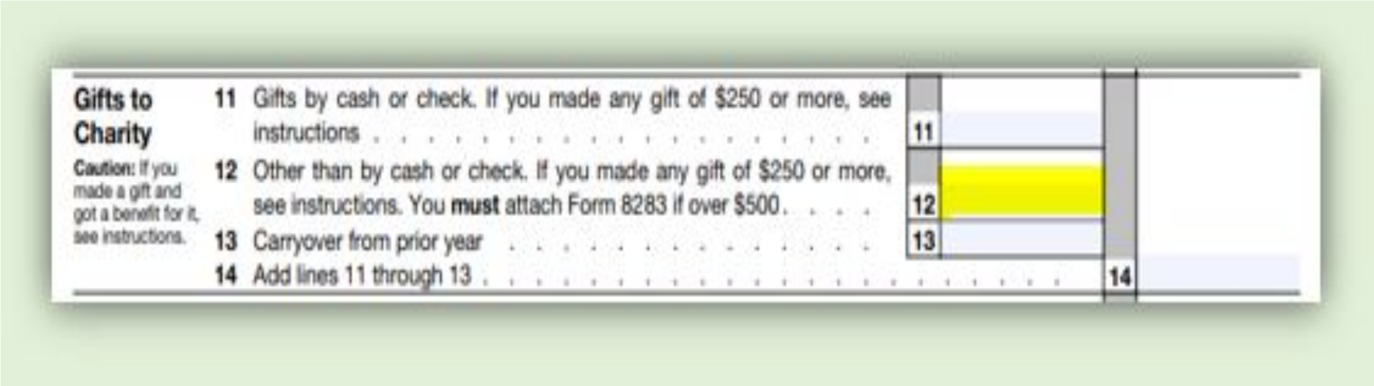
ENVIRONMENTAL
POLICY= TAX POLICY

The Finances of Deconstruction

For individuals and pass-through entities, these deductions are taken on the Individual 1040, Schedule A: *Itemized Deductions:*



Gifts to Charity

Caution: If you made a gift and got a benefit for it, see instructions.

11 Gifts by cash or check. If you made any gift of $250 or more, see instructions **11**

12 Other than by cash or check. If you made any gift of $250 or more, see instructions. You **must** attach Form 8283 if over $500. . . . . **12**

13 Carryover from prior year **13**

14 Add lines 11 through 13 . . . . . **14**

By necessity, deconstruction typically costs more than demolition due to the additional time needed to carefully take apart a structure with the aim of preserving the salvaged elements—opposed to the break-and-dump processes of demolition. However, these costs can be offset through tax deductions

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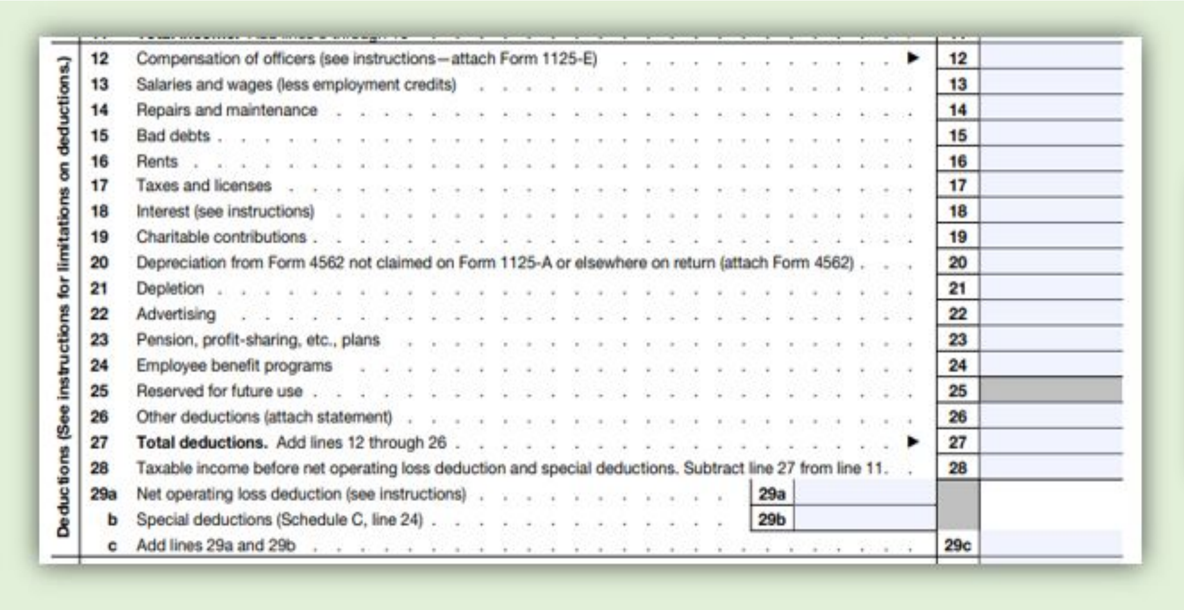
Tax deduction limitations



Deductions (See instructions for limitations on deductions.)

12	Compensation of officers (see instructions—attach Form 1125-E) ▶	12
13	Salaries and wages (less employment credits)	13
14	Repairs and maintenance	14
15	Bad debts	15
16	Rents	16
17	Taxes and licenses	17
18	Interest (see instructions)	18
19	Charitable contributions	19
20	Depreciation from Form 4562 not claimed on Form 1125-A or elsewhere on return (attach Form 4562)	20
21	Depletion	21
22	Advertising	22
23	Pension, profit-sharing, etc., plans	23
24	Employee benefit programs	24
25	Reserved for future use	25
26	Other deductions (attach statement)	26
27	**Total deductions.** Add lines 12 through 26 ▶	27
28	Taxable income before net operating loss deduction and special deductions. Subtract line 27 from line 11.	28
29a	Net operating loss deduction (see instructions) 29a	
b	Special deductions (Schedule C, line 24) 29b	
c	Add lines 29a and 29b	29c

This deduction is limited to 50% of Adjusted Gross Income with a 5-year carry-forward.

Corporations may take the deduction on their corporate income tax return, Form 1120 as shown above. This deduction is limited to 10% of net income with the inclusion of specific add-backs, also with a 5-year carry-forward.

When do you need an appraisal?

Appraisals

The IRS requires an appraisal for a donation of property with a Fair Market Value in excess of $5,000. Ensuring these appraisals are produced accurately and in line with Internal Revenue Code, relevant case law, personal property organization valuation principles as well as USPAP (the Uniform Standards of Professional Appraisal Practice) is critical to ensure client's deductions can be substantiated and are not disallowed by the IRS

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> $5,000

Appraisal steps include:

1. **Determining the scope of the donation with the client and providing an initial estimated value range. We provide this at no cost.**

2. **The client then ensures they qualify to take the tax deduction by consulting their CPA or tax professional.**
3. **The client then chooses both a deconstruction team and a nonprofit or governmental entity to be the recipient of the donation.**
4. **Once completed, the recipient organization provides a detailed receipt of all property received and accepted.**
5. **An appraisal is produced based upon that final inventory list.**

Appraisals should include the following elements:

- **Complete description of the property with corresponding photographs.**

- **Analysis and selection of comparable market sales at the correct market level, which is typically secondary retail sales at auction or firm offers of sale by retailers of pre-owned materials, furnishings, and other property.**

- **An appraisal report following IRS, personal property organizations and USPAP guidelines.**

- **Inclusion of both a macro and micro economic analysis of the current market for the materials.**

- **All corroborating data upon which our values were concluded.**

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Proper Valuation Methodology

There are three valuation methods to be applied when appraising. Each must be considered in an appraisal with the appraiser determining if one or more applies to the given assignment. These include:

Sales Comparison Approach (Market-based Approach)
Cost Approach
Income Approach

The Sales Comparison Approach is used for the overwhelming majority of all personal property appraisals prepared to substantiate an income tax deduction for a charitable contribution. This method includes the research and documentation of consummated sales and offers of sale for comparable property in a relevant time frame and in the relevant market.

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Ensure correct valuation methodology

Valuation based upon actual sales on the correct market, secondary retail and/or auction

No short-cuts:

Plugging in values to R.S. Means or Marshall & Swift

Must research and document

An Example by the Numbers

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As an example, assume a taxpayer has an effective (average) federal tax rate of 20% and a state tax rate of 5% for a combined rate of 25%. This also assumes that the state permits deductions for charitable contributions. Please refer to the site in footnotes for a complete listing.

Donation: Kitchen cabinetry, high-end appliances, granite countertops, light fixtures.
Fair Market Value: $20,000
Net tax benefit: $5,000

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Correct appraisal steps

- Literal description of the property along with photograph
- Dimensions
- Condition
- Research comparable sales on the open market, 500+ auction and sale venues
- Present comparable sales. We use 3+ for pieces >$100
- Reconcile and conclude final value
- Include comparable sales data

Step One: Literal Description

The first step to be taken is for an appraiser to give a literal description of the donated property. Let's take the example of a donated door. A literal description of the door would be:

Six-panel door, manufactured of pine and painted white, having a solid core with six beveled frames, devoid of hardware and without inclusion of the door jamb. Dimensions: 80"H x 36"W. The door is in overall good condition with noted signs of chipped paint along the bottom.

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Step Two: Comparable Sales

The appraiser should present comparable sales to substantiate their concluded value. In this case, a comparable sale could be included with the following description:

> *Comparable 1: This is a sale of a similar six-panel door, also in pine but having an unfinished rather than painted exterior. The door has the same dimensions and is in used good condition, with similar wear evident along the interior edges. The sale occurred at* ***Sample Retail*** *on 12/31/20 for $105. The sale included antique style brass hardware including a knob and hinges as well as the door jamb.*

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Step Three: Adjustments to Value

The appraiser then makes adjustment to the comparable sale to conclude final value.

In concluding value, I considered this sale as relevant due to the following factors: The door is of similar dimensions and the lack of paint does not appear to affect value after a review of other comparable sales. The door is in similar condition to the appraised but requires adjustments downward due to the inclusion of hardware, hinges, and a door jamb. The sale occurred within close proximity to the effective valuation date. The appraised value is adjusted downward to $85.

CORRECT PRESENTATION

Wolf professional gas-powered cooktop, Model: CG304P/S-LP, manufactured in 2010, stainless-steel composition, with four burners and continuous grates, with red knobs.

Dimensions: 30”W x 21”D

Condition: Good, functions as intended, some cosmetic wear on knobs.

Comparable 1: This is a sale of a comparable model of a Wolf gas-powered cooktop, manufactured in 2011 and in similar condition and finish with some cosmetic wear. The sale occurred on eBay on 2/4/22 for $1,250.

Comparable 2: This is a sale of a comparable model of a Wolf gas-powered cooktop, manufactured in 2008, in similar finish but with some damage noted including a missing knob. The sale occurred on HiBid Auction on 1/4/22 for $995.

Comparable 3: This is a sale of a larger model of Wolf cooktop, having five burners, also stainless-steel composition and in similar condition, manufactured in 2013. The sale occurred on K-Bid Auction on 2/25/22 for $1,800

The concluded value is based upon Comparable 1 as most similar to the appraised in model, condition, and age for a final value of $1,250.

INCORRECT PRESENTATION

Wolf Cooktop: $1,900

TIME COMPARISON IN APPRAISAL PRODUCTION TIME

Deconstruction of a 2,500 square foot home

Correct methodology: **20 hours**

Short-cut methodology (like R.S. Means): **30 minutes**

Appraisal fees of $1,500

Correct: $75/hour

Incorrect: $3,000/hour

Important Tax Considerations

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Itemized Deductions for Individuals

To take the deduction for **Non-Cash Charitable Contributions** a taxpayer must itemize deductions (1040 Schedule A) as opposed to taking the standard deduction. With the Tax Cuts and Jobs Act (TCJA) the standard deduction was significantly raised. For 2021 the standard deduction will be $12,550 for single taxpayers, $25,100 married joint and $18,000 head of household. The taxpayer needs to ensure that they are above the standard deduction *before* including the value of the charitable contribution. For example, if your itemized deductions come in at only $14,000 before taking the charitable contribution, the net tax value of the donation will be less than if you had already exceeded the standard deduction threshold. Keep in mind the following categories that comprise the Schedule A, Itemized Deductions:

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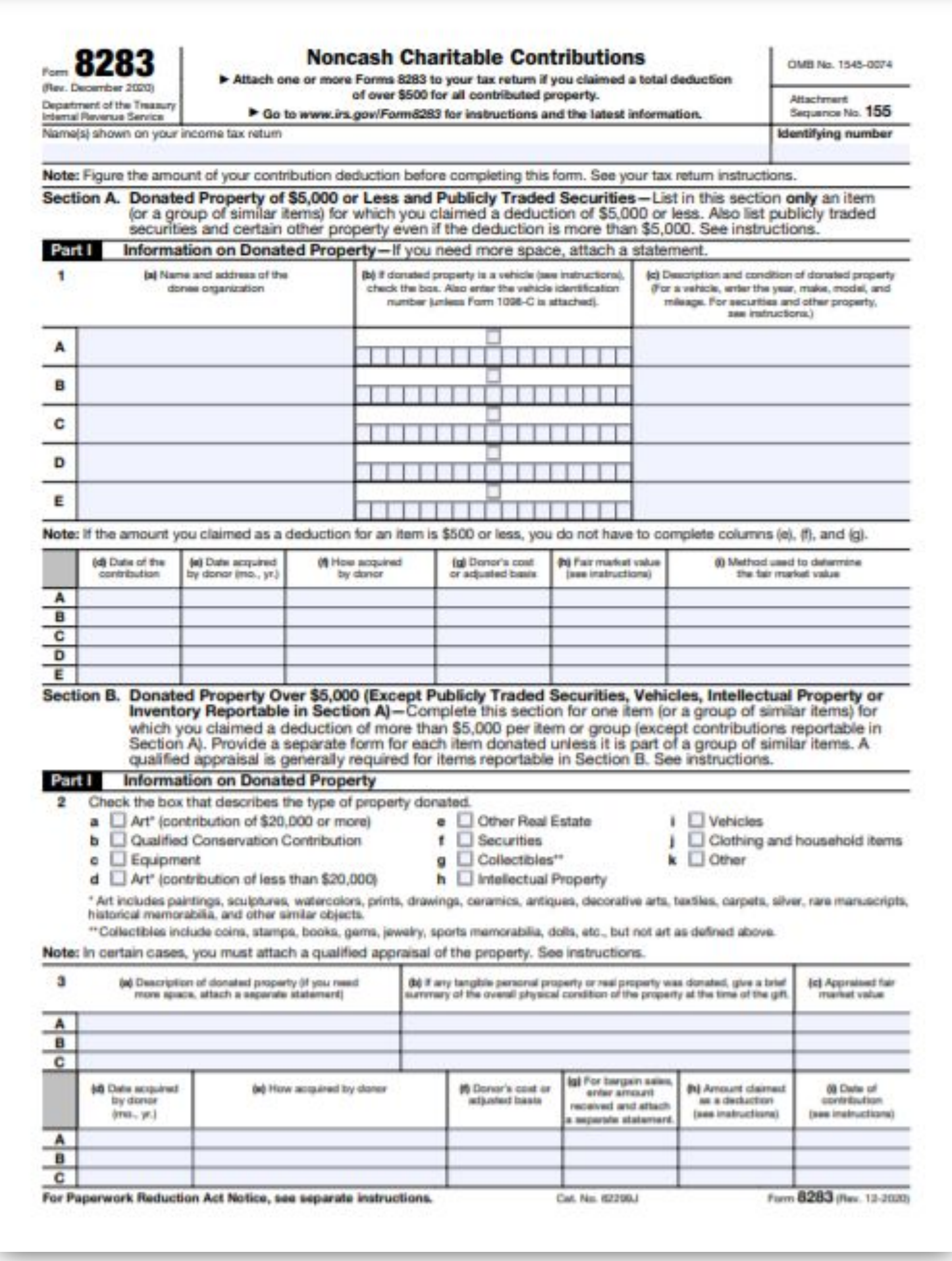
What Tax Forms are Necessary?

If the donation of materials is in excess of $5,000 then the IRS requires an IRS defined *Qualified Appraisal* by an IRS defined *Qualified Appraiser*. The taxpayer must remit IRS Form 8283, which must be filled out by the client in its entirety and signed by both the nonprofit and the appraiser. Please note case *Loube v. Commissioner*, the deduction was disallowed when the taxpayer did not properly full out the form and the appraiser forgot to sign.



Form **8283**
(Rev. December 2020)
Department of the Treasury
Internal Revenue Service

Noncash Charitable Contributions

▶ **Attach one or more Forms 8283 to your tax return if you claimed a total deduction of over $500 for all contributed property.**

▶ **Go to www.irs.gov/Form8283 for instructions and the latest information.**

OMB No. 1545-0074
Attachment Sequence No. **155**

Name(s) shown on your income tax return	**Identifying number**

Note: Figure the amount of your contribution deduction before completing this form. See your tax return instructions.

Section A. Donated Property of $5,000 or Less and Publicly Traded Securities—List in this section **only** an item (or a group of similar items) for which you claimed a deduction of $5,000 or less. Also list publicly traded securities and certain other property even if the deduction is more than $5,000. See instructions.

Part I **Information on Donated Property**—If you need more space, attach a statement.

1	(a) Name and address of the donee organization	(b) If donated property is a vehicle (see instructions), check the box. Also enter the vehicle identification number (unless Form 1098-C is attached).	(c) Description and condition of donated property (For a vehicle, enter the year, make, model, and mileage. For securities and other property, see instructions.)
A		☐	
B		☐	
C		☐	
D		☐	
E		☐	

Note: If the amount you claimed as a deduction for an item is $500 or less, you do not have to complete columns (e), (f), and (g).

	(d) Date of the contribution	(e) Date acquired by donor (mo., yr.)	(f) How acquired by donor	(g) Donor's cost or adjusted basis	(h) Fair market value (see instructions)	(i) Method used to determine the fair market value
A						
B						
C						
D						
E						

Section B. Donated Property Over $5,000 (Except Publicly Traded Securities, Vehicles, Intellectual Property or Inventory Reportable in Section A)—Complete this section for one item (or a group of similar items) for which you claimed a deduction of more than $5,000 per item or group (except contributions reportable in Section A). Provide a separate form for each item donated unless it is part of a group of similar items. A qualified appraisal is generally required for items reportable in Section B. See instructions.

Part I **Information on Donated Property**

2 Check the box that describes the type of property donated.

- a ☐ Art* (contribution of $20,000 or more)
- b ☐ Qualified Conservation Contribution
- c ☐ Equipment
- d ☐ Art* (contribution of less than $20,000)
- e ☐ Other Real Estate
- f ☐ Securities
- g ☐ Collectibles**
- h ☐ Intellectual Property
- i ☐ Vehicles
- j ☐ Clothing and household items
- k ☐ Other

* Art includes paintings, sculptures, watercolors, prints, drawings, ceramics, antiques, decorative arts, textiles, carpets, silver, rare manuscripts, historical memorabilia, and other similar objects.

**Collectibles include coins, stamps, books, gems, jewelry, sports memorabilia, dolls, etc., but not art as defined above.

Note: In certain cases, you must attach a qualified appraisal of the property. See instructions.

3	(a) Description of donated property (if you need more space, attach a separate statement)	(b) If any tangible personal property or real property was donated, give a brief summary of the overall physical condition of the property at the time of the gift.	(c) Appraised fair market value
A			
B			
C			

	(d) Date acquired by donor (mo., yr.)	(e) How acquired by donor	(f) Donor's cost or adjusted basis	(g) For bargain sales, enter amount received and attach a separate statement.	(h) Amount claimed as a deduction (see instructions)	(i) Date of contribution (see instructions)
A						
B						
C						

For Paperwork Reduction Act Notice, see separate instructions. Cat. No. 62299J Form **8283** (Rev. 12-2020)

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Taxpayer's Responsibility on Form 8283:

Section B. Donated Property Over $5,000 (Except Publicly Traded Securities, Vehicles, Intellectual Property or Inventory Reportable in Section A)—Complete this section for one item (or a group of similar items) for which you claimed a deduction of more than $5,000 per item or group (except contributions reportable in Section A). Provide a separate form for each item donated unless it is part of a group of similar items. A qualified appraisal is generally required for items reportable in Section B. See instructions.

Part I Information on Donated Property

2 Check the box that describes the type of property donated.

- **a** ☐ Art* (contribution of $20,000 or more)
- **b** ☐ Qualified Conservation Contribution
- **c** ☐ Equipment
- **d** ☐ Art* (contribution of less than $20,000)
- **e** ☐ Other Real Estate
- **f** ☐ Securities
- **g** ☐ Collectibles**
- **h** ☐ Intellectual Property
- **i** ☐ Vehicles
- **j** ☐ Clothing and household items
- **k** ☐ Other

* Art includes paintings, sculptures, watercolors, prints, drawings, ceramics, antiques, decorative arts, textiles, carpets, silver, rare manuscripts, historical memorabilia, and other similar objects.

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A			
B			
C			

	(d) Date acquired by donor (mo., yr.)	(e) How acquired by donor	(f) Donor's cost or adjusted basis	(g) For bargain sales, enter amount received and attach a separate statement.	(h) Amount claimed as a deduction (see instructions)	(i) Date of contribution (see instructions)
A						
B						
C						

For Paperwork Reduction Act Notice, see separate instructions. Cat. No. 62299J Form **8283** (Rev. 12-2020)

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Appraiser and Recipient Organization's Section on Form 8283

Part IV **Declaration of Appraiser**

I declare that I am not the donor, the donee, a party to the transaction in which the donor acquired the property, employed by, or related to any of the foregoing persons, or married to any person who is related to any of the foregoing persons. And, if regularly used by the donor, donee, or party to the transaction, I performed the majority of my appraisals during my tax year for other persons.

Also, I declare that I perform appraisals on a regular basis; and that because of my qualifications as described in the appraisal, I am qualified to make appraisals of the type of property being valued. I certify that the appraisal fees were not based on a percentage of the appraised property value. Furthermore, I understand that a false or fraudulent overstatement of the property value as described in the qualified appraisal or this Form 8283 may subject me to the penalty under section 6701(a) (aiding and abetting the understatement of tax liability). I understand that my appraisal will be used in connection with a return or claim for refund. I also understand that, if there is a substantial or gross valuation misstatement of the value of the property claimed on the return or claim for refund that is based on my appraisal, I may be subject to a penalty under section 6695A of the Internal Revenue Code, as well as other applicable penalties. I affirm that I have not been at any time in the three-year period ending on the date of the appraisal barred from presenting evidence or testimony before the Department of the Treasury or the Internal Revenue Service pursuant to 31 U.S.C. 330(c).

Sign Here

Appraiser signature ▶ Date ▶

Appraiser name ▶ Title ▶

Business address (including room or suite no.) **Identifying number**

City or town, state, and ZIP code

Part V **Donee Acknowledgment**

This charitable organization acknowledges that it is a qualified organization under section 170(c) and that it received the donated property as described in Section B, Part I, above on the following date ▶

Furthermore, this organization affirms that in the event it sells, exchanges, or otherwise disposes of the property described in Section B, Part I (or any portion thereof) within 3 years after the date of receipt, it will file **Form 8282**, Donee Information Return, with the IRS and give the donor a copy of that form. This acknowledgment does not represent agreement with the claimed fair market value.

Does the organization intend to use the property for an unrelated use? . . . . ▶ ☐ **Yes** ☐ **No**

Name of charitable organization (donee) **Employer identification number**

Address (number, street, and room or suite no.) City or town, state, and ZIP code

Authorized signature Title Date

Form **8283** (Rev. 12-2020)

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Potential Tax Law Changes

1. Restoration of the 39.6% top. Higher effective (average) tax rates make every dollar's worth of non-cash donation worth more.

2. Long-term Capital Gains tax rate of 39.6% potentially for households with >$1M in income. This comes into play with donating appreciated property like art, antiques and collectibles rather than selling. The Fair Market Value deduction at a higher effective tax rate may net a higher return than selling and paying taxes on the increase over basis.

3. Extend the higher Child Tax Credit and make it permanently refundable. Taxpayers with children will, consequently, have lower effective tax rates and donations will be worth less in after-tax benefits. No extension to-date.

4. Repealing the State and Local Tax (SALT) cap of $10,000, opening up higher total Schedule A "Itemized" deductions.

5. Potentially cap Itemized Deductions at 28%. Higher earners would have their non-cash donations capped. For example, if a taxpayer had an effective tax rate of 35%, they would lose 7% of their itemized deductions.

6. There have, so far, been no changes regarding the 50% Adjusted Gross Income limitation and 5-year carryforward for non-cash charitable contributions, or any other line-item dealing with donations to charity.

7. Changes could potentially be retroactive.

What makes an appraiser qualified?

1. Review the appraiser's CV to ensure they have undergraduate and preferably graduate education credentials in a field in which valuation theory and processes are firmly understood.

2. Ensure your appraiser is an **accredited** member of one of the three personal property organizations:

   - *American Society of Appraisers (ASA)*
   - *Appraisers Association of America (AAA)*
   - *International Society of Appraisers (ISA)*

3. The appraiser or owners of the firm must not be precluded from preparing appraisals for the IRS as detailed in IRS Circular 230

4. Request a sample appraisal and look for the following:

   - Thorough market analysis that is up-to-date and relevant
   - Adequate descriptions of the property
   - Inclusion of comparable sales data in the analysis of all valued property
   - An explanation of how the appraiser came to the concluded value. Simply plugging in a value does not suffice.
   - Inclusion of photographs of all donated property

Appraiser Warning Signs

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- Audit proof
- Never had an IRS Audit—Impossible for the appraiser to know since the taxpayer is only notified should the return go to review, and the appraisal be deemed unqualified
- USPAP Certified—Not a certification
- Licensed or certified “reuse” or “deconstruction” appraiser—No such license exists

Ensuring Compliance with the IRS: Recent Case Law

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Mann v. United States, 2019 and appeal in 2020

In both the original case and the appeal, the taxpayer lost, and the appraisal deemed unqualified. The appraiser used construction cost estimating software, R.S. Means, to calculate the value of the entire structure. As the appeal made clear, the appraiser should have been relying upon sales in the open market to conclude Fair Market Value.

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From an article in The Tax Advisor:

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Reflections

The Manns were out more than just the amount of the disallowed deduction for the donation for the house. To get Second Chance to do the deconstruction work, the Manns had to agree to donate $20,000 in cash (although they eventually only donated $11,500) and presumably had to pay for the appraisals by NoVaStar. Additionally, they had to take the time, trouble, and expense of challenging the IRS determination administratively and through the court system.

The IRS does not object to a deduction for a charitable donation of building components from a home deconstruction, but, as this case indicates, if it has doubts about the propriety of such a deduction, it will scrutinize it to make sure that its amount is not overstated and it is substantiated as required by the Code and regulations. Thus, taxpayers undertaking such a project should be careful to ensure that they have proper documentation of the components actually donated to charity and a qualified appraisal of their value.

Loube v. Commissioner, 2020

The taxpayer, nonprofit and appraiser made the disallowance easy due to not filling out Form 8283 in its entirety. IRS Counsel Theresa Melchoire provided the following memorandum entry:

114. Loube v. Commissioner, T.C. Memo. 2020-3 (January 8, 2020)

Facts: Petitioners hired Second Chance (the donee) to deconstruct a single-family home. On their 2013 income tax return, petitioners claimed a charitable contribution deduction for the value of the property salvaged by the donee. Respondent disallowed the deduction.

Respondent argued that petitioners are barred from deducting a charitable contribution deduction because their Form 8283 failed to include the date the donated property was acquired or its cost basis, as well as its purporting to donate the salvaged items yet valuing the entire house.

The Tax Court concluded that petitioners failed to "strictly comply" with DEFRA section 155 and the regulations thereunder because their Form 8283 failed to provide the basis and the acquisition date of the contributed property. Petitioners also failed to attach to the Form 8283 an explanation of reasonable cause for the failure. The court also found that the petitioners did not "substantially comply" with DEFRA's requirements.

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Chirelli v. Commissioner, T.C. Memo 2021027 March 3rd, 2021

This is another tax court case in which a taxpayer lost their non-cash charitable contribution due to lack of substantial compliance by the appraiser in producing an IRS Qualified Appraisal.

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Retrospective Appraisals
IRS Rejected Appraisals Requiring a Back-Dated Retrospective Appraisal

Reasons for Appraisal Disallowance:

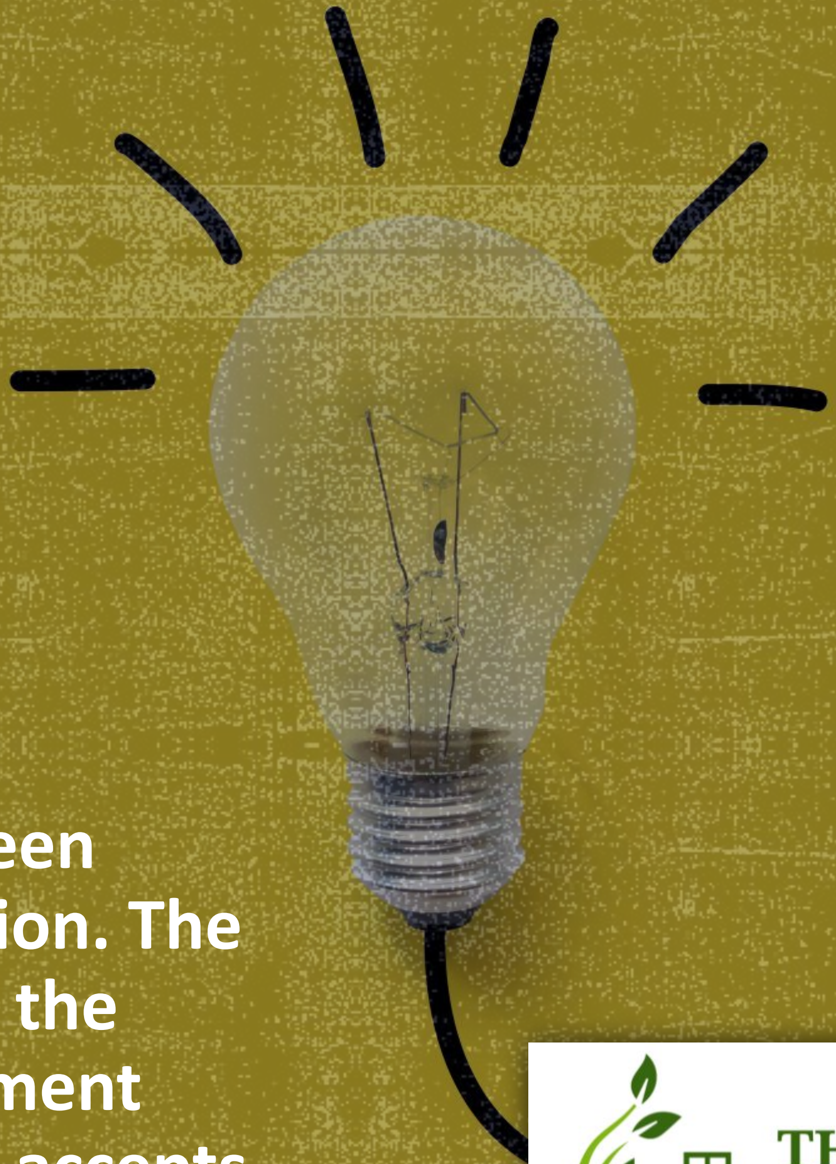
The appraiser does not possess adequate education and qualifications.

The appraiser did not use the market-based Sales Comparison Approach in concluding appraised value.

The appraisal is missing a full description of the property with adequate photographs and is not well researched and values substantiated.

Comparable sales data is not included within the appraisal.

Nonprofits and Contemporaneous Written Acknowledgement



Appraisers must only appraise what has been donated to a nonprofit recipient organization. The IRS substantiates these donations through the Contemporaneous Letter of Acknowledgement (CWA) and must ensure that the nonprofit accepts everything the appraiser appraises.

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What is USPAP?

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- USPAP includes rules applicable to every appraisal field whether real, personal property or business valuation. The rules include:
  - Ethics Rule
  - Record Keeping Rule
  - Competency Rule
  - Scope of Work Rule
  - Jurisdictional Exception Rule
- The standards that apply specifically to personal property appraisals are:
  - Standard 3: Appraisal Review, Development
  - Standard 4: Appraisal Review, Reporting
  - Standard 7: Personal Property Appraisal, Development
  - Standard 8: Personal Property Appraisal Reporting

Ensuring Tax Deductions Remain Viable: Common Sense Approach

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When pieces of a home are detached from the real property, they become personal property. The value of an intact real property structure is almost always of significantly higher value than as detached personal property. For a whole house deconstruction, if an appraiser is promising values of around $150,000 for a 1,500 square foot home, that is a valuation of $100 per square foot. Valuations that high are not based on market data and are grossly inflated. Finally, check the tax assessment records of the property. If a client receives an appraised value of $150,000 and the improvements are valued around the same level, something is terribly wrong with the appraised valuation.

Conclusion

1

Ensure your appraiser is an IRS Qualified appraiser with requisite education and accreditation.

2

Ensure appraisers are IRS Qualified and ensure sound valuation methodology relying upon open market sales data.

3

Stay up-to-date on relevant case and tax law, which may affect non-cash charitable donations.

4

Continue to help taxpayers make the environmentally sustainable choice of deconstruction over demolition… with a valuable tax deduction as an incentive.